

**1** Muriel B. Kaplan, Esq. (SBN 124607)  
**2** Michele R. Stafford, Esq. (SBN 172509)  
**3** SALTZMAN & JOHNSON LAW CORPORATION  
44 Montgomery Street, Suite 2110  
**4** San Francisco, CA 94104  
(415) 882-7900  
**5** (415) 882-9287 – Facsimile  
mkaplan@sjlawcorp.com  
mstafford@sjlawcorp.com

**6** Attorneys for Plaintiffs  
**BAY AREA PAINTERS AND TAPERS**  
**7** PENSION FUND, et al.

8

9

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

## **13 BAY AREA PAINTERS AND TAPERS PENSION FUND et al**

Plaintiffs.

V.

**17** RODEO DRYWALL, INC. and TONY  
RODRIGUEZ,

18 | Defendants.

Case No.: C07-6344 MHP

## **REQUEST TO CONTINUE OR VACATE CASE MANAGEMENT CONFERENCE**

Date: July 10, 2008

Time: 2:00 p.m.

Dept.: Ctrm. 15, 18<sup>th</sup> Floor

Judge: Hon. Marilyn Hall Patel

19

Plaintiffs hereby request that the Case Management Conference, currently scheduled for Thursday, July 10, 2008 be either continued or vacated so that Plaintiffs can file an Amended Complaint.

23       1. As the Court is aware, despite multiple follow up contacts by this office the  
24 defendants have refused to produce their missing contribution reports. The reports for the months  
25 of July 2007 – September, 2007 still have not been provided. All other contribution reports  
26 (starting with October, 2007) have reported that no employees were working for defendants.

-1-

**REQUEST TO CONTINUE  
CASE MANAGEMENT CONFERENCE  
Case No.: C07-6344 MPH**

1       2. Due to the absence of the contribution reports, plaintiffs are unable to ascertain  
 2 what amounts, if any, are owed to the Trust Funds. Plaintiffs were hoping that Mr. Rodriguez  
 3 would cooperate and produce the reports. Plaintiffs did not want to go to the expense and waste  
 4 the Court's time in filing a Motion for Default if nothing is owed.

5       3. As Mr. Rodriguez is just missing these three reports, and has repeatedly not  
 6 provided them, Plaintiffs assume that there were hours worked and contributions are due.

7       4. I have spoken to one of the Business Representatives for District Counsel 16, who  
 8 believes that Rodeo Drywall had work, and had Union employees working, during the time that he  
 9 was reporting "0" due in contributions.

10      5. I have also spoken to two school districts and general contractors who advise that  
 11 Mr. Rodriguez is doing work or has done work for them on various projects.

12      6. As it appears that there may be inconsistencies in reporting, I have requested that  
 13 an audit be performed of defendant's records. Plaintiffs will file an Amended Complaint to  
 14 address the audit issue. Once the audit is complete, plaintiffs will file a Motion for Default  
 15 Judgment as to any amounts found due.

16      7. I am requesting that the Court either continue the Case Management Conference or  
 17 Vacate it (setting a new schedule once the Amended Complaint is filed) to allow the audit to  
 18 occur. The audit is necessary to establish plaintiffs' damages in this action.

19      ///

20      ///

21      ///

22      ///

23      ///

24      ///

25      ///

26      ///

27      ///

28      ///

-2-

**REQUEST TO CONTINUE  
CASE MANAGEMENT CONFERENCE  
Case No.: C07-6344 MPH**

1 I declare under penalty of perjury that I am the attorney for the plaintiffs in the above  
2 entitled action, and that the foregoing is true of my own knowledge.

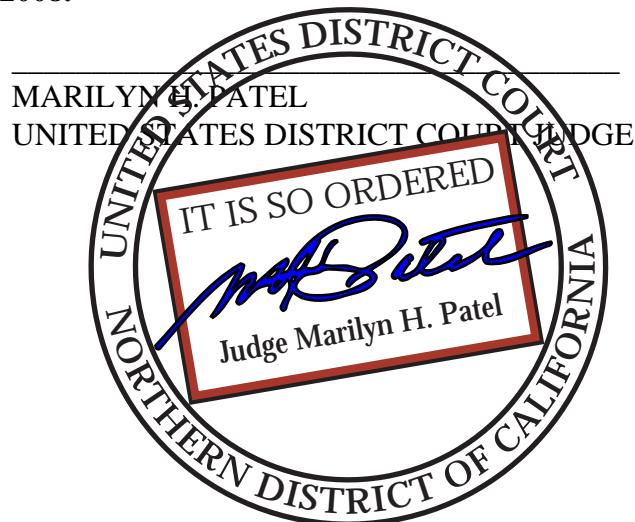
3 Executed this 30<sup>th</sup> day of June, 2008, at San Francisco, California.

4 SALTZMAN & JOHNSON LAW CORPORATION

5  
6 By: \_\_\_\_\_/s/ \_\_\_\_\_  
7 Michele R. Stafford  
Attorneys for Plaintiffs

8 IT IS SO ORDERED. The CMC is continued to September 8, 2008 at 3:00 p.m., with joint CMC  
9 statement due on or before September 2, 2008.

10 Date: July 3, 2008



## PROOF OF SERVICE

I am a citizen of the United States and am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to this action. My business address is 44 Montgomery Street, Suite 2110, San Francisco, California 94104.

On June 30, 2008, I served the following document(s):

## **REQUEST TO CONTINUE OR VACATE CASE MANAGEMENT CONFERENCE**

on the interested parties in said action by placing a true and exact copy of each document in a sealed envelope with postage thereon fully prepaid, in a United States Post Office box in San Francisco, California, addressed as follows:

**Rodeo Drywall, Inc.  
38721 Blacow Road  
Fremont, California 94536**

**Tony Rodriguez  
38721 Blacow Road  
Fremont, California 94536**

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 30<sup>th</sup> day of June, 2008, at San Francisco, California.

/s/ \_\_\_\_\_